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Attorney for Defendant

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
JASON PAUL ONIS KING KIVI,  
  
Defendant.

Case No. 3:05-cr-0106-JWS

**DEFENDANT'S  
SECOND UNOPPOSED MOTION  
ON SHORTENED TIME TO  
CONTINUE TRIAL**

Defendant, Jason Paul Onis King Kivi, by and through counsel M. J. Haden, Staff Attorney, moves this court on shortened time to continue the trial in this matter for a period of two weeks. The trial currently is scheduled for Monday, April 10, 2006. The continuance is necessary because Mr. Kivi's motion to suppress evidence remains outstanding. The motion to suppress evidence is dispositive of the case.

Mr. Kivi was arraigned on a federal indictment charging him with felon in possession of a firearm in violation of 18 U.S.C. § 922(g) on December 27, 2005. His trial

originally was scheduled for February 27 2006.<sup>1</sup> On January 17, 2006, Mr. Kivi filed a motion to suppress evidence and requested an evidentiary hearing. Docket Nos. 13, 14. The government filed its response on January 27, 2006. Docket No. 16. An evidentiary hearing was held on January 30, 2006. Docket No. 17. The magistrate court issued an initial report and recommendation on February 10, 2006. Docket No. 20. Mr. Kivi filed timely objections to the initial report and recommendation on February 16, 2006. Docket No. 22. The government filed its response to Mr. Kivi's objections on February 22, 2006. Docket No. 29. No final report and recommendation has been filed. No final ruling on Mr. Kivi's motion has been issued.

Trial currently is scheduled for Monday, April 10, 2006. Trial briefs, proposed voir dire questions, and proposed jury instructions are due on April 3, 2006. At the current time, Mr. Kivi does not anticipate proceeding to a jury trial. However, depending on the outcome of his motion, he may desire to preserve his Fourth Amendment issue either by way of a conditional plea or a bench trial with mostly stipulated facts. As the trial is less than seven business days away, Mr. Kivi requests a continuance of two weeks to allow adequate time for him to weigh his options once a final ruling regarding his motion to suppress is issued.

Mr. Kivi currently is in state custody and is incarcerated at the Wildwood Correctional Center in Kenai, Alaska.

Assistant United States Attorney Bryan Schroder does not oppose this request.

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<sup>1</sup> Trial was later continued to April 10, 2006, to accommodate the litigation of defendant's pre-trial motions. Docket No. 30.

Time under the speedy trial rule involved in this request is excludable pursuant to 18 U.S.C. § 3161(h)(1)(D). This motion is submitted pursuant to D. Alaska Loc. Crim. R. 47.1.

DATED this 29th day of March, 2006.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER  
FOR THE DISTRICT OF ALASKA

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Certification:

I certify that on March 29, 2006, a copy of the foregoing document, with attachments, was served electronically on:

Bryan Schroder, Esq.

/s/ M. J. Haden